

2005 DRAFTING REQUEST

Bill

Received: **01/17/2005**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Statz**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - district attys**

Extra Copies: **MGD**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

DOA:.....Statz -

Topic:

Move administrative functions for district attorneys to department of justice from the department of administration

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 01/20/2005	lkunkel 01/20/2005		_____ _____			
/1			chaugen 01/21/2005	_____ _____	mbarman 01/21/2005		
/2	mdsida 01/26/2005	lkunkel 01/26/2005	jfrantze 01/26/2005	_____ _____	lnorthro 01/26/2005		

FE Sent For:

<END>

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/?	chanaman 01/20/2005	lkunkel 01/20/2005					
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1/2/mK 1/26 201/26 Jp/26
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/?	chanaman	/l/mk 1/20	Ch 1/21	Ch 1/21 JK			

FE Sent For:

<END>



State of Wisconsin
2005 - 2006 LEGISLATURE

1/21

LRB-17379

CMH:WK

pm not run

administrative
administrative functions for

DOA:.....Statz - Move district attorneys to department of justice from the department of administration

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

DoNotGen

1 AN ACT ...; relating to: transferring administrative functions for district
2 attorneys to the department of justice.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE ✓

DISTRICT ATTORNEYS ✓

Generally, under current law, a county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. ✓
DOA, through its State Prosecutors Office, provides administrative assistance to district attorney offices. ✓ This bill transfers the administrative assistance duties to DOJ. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 16.004 (13) of the statutes is repealed.

4 **SECTION 2.** 17.11 (4) (intro.) of the statutes is amended to read:

5 17.11 (4) (intro.) If it is determined in the action or proceeding or is found upon
6 the investigation that a district attorney or sheriff suspended under this section is

1 not guilty of an offense, or has not willfully neglected or refused to perform his or her
2 duties, as charged, that fact shall be certified by the governor to the department of
3 ~~administration~~ [✓] justice if a district attorney is involved or to the county clerk of the
4 sheriff's county if a sheriff is involved. Upon the certification, the district attorney
5 or sheriff shall be:

History: 1989 a. 31; 1991 a. 316.

6 **SECTION 3.** 19.01 (4) (bn) of the statutes is amended to read:

7 19.01 (4) (bn) Official oaths and bonds of all district attorneys shall be filed with
8 the ~~secretary~~ [↓] ^{department} [✓] of administration justice.

History: 1971 c. 154; 1977 c. 29 s. 1649; 1977 c. 187 ss. 26, 135; 1977 c. 305 s. 64; 1977 c. 449; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (13); 1983 a. 6, 192; 1983 a. 538 s. 271; 1989 a. 31; 1991 a. 39, 316; 1993 a. 399; 1997 a. 250; 1999 a. 32, 83; 2001 a. 61.

9 **SECTION 4.** 19.42 (5) of the statutes is amended to read:

10 19.42 (5) "Department" means the legislature, the University of Wisconsin
11 System, any authority or public corporation created and regulated by an act of the
12 legislature and any office, department, independent agency or legislative service
13 agency created under ch. 13, 14 or 15, any technical college district or any
14 constitutional office other than a judicial office. In the case of a district attorney,
15 "department" means the department of ~~administration~~ [✓] justice unless the context
16 otherwise requires.

History: 1973 c. 90; Stats. 1973 s. 11.02; 1973 c. 333; 1973 c. 334 ss. 33, 57; Stats. 1973 s. 19.42; 1977 c. 29, 223, 277; 1977 c. 447 ss. 35, 209; 1979 c. 34, 177, 221; 1981 c. 20, 269, 349, 391; 1983 a. 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 166 ss. 1 to 4, 16; 1983 a. 484, 538; 1985 a. 26; 1985 a. 29 s. 3202 (46); 1985 a. 304; 1987 a. 72, 119; 1987 a. 312 s. 17; 1987 a. 340, 365, 399, 403; 1989 a. 31, 338; 1991 a. 39, 189, 221, 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 274; 1997 a. 27; 1997 a. 237 ss. 19m, 722q; 1997 a. 298; 1999 a. 42, 65; 2001 a. 16, 104, 109; 2003 a. 39.

17 **SECTION 5.** 20.475 (intro.) of the statutes is amended to read:

18 **20.475 District attorneys.** (intro.) There is appropriated to the department
19 of ~~administration~~ [✓] justice for the following programs:

History: 1989 a. 31, 117, 122; 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 448; 1999 a. 9; 2001 a. 16; 2003 a. 33, 139, 326.

20 **SECTION 6.** 20.475 (1) (d) of the statutes is amended to read:

21 20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for
22 salaries and fringe benefits of district attorneys and state employees of the office of

1 the district attorney, for payments under s. 978.045 (2) (b) and, beginning in the
2 1999–2000 fiscal year and ending in the 2003–04 fiscal year, for a payment of \$80,000
3 in each fiscal year toward the department of ~~administration's~~ [✓] justice's unfunded
4 prior service liability under the Wisconsin retirement system that results from
5 granting the creditable service under s. 40.02 (17) (gm).

~~X~~
History: 1989 a. 31, 117, 122; 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 448; 1999 a. 9; 2001 a. 16; 2003 a. 33, 139, 326.

6 **SECTION 7.** 20.923 (6) (ac) of the statutes is renumbered 20.923 (6) (dm) and
7 amended to read:

8 20.923 (6) (dm) ~~Administration~~ [✓] Justice, department of: deputy and assistant
9 district attorneys.

History: 1971 c. 18, 125, 164; 1971 c. 270 ss. 98, 104; 1971 c. 307, 321; 1973 c. 90, 156, 243, 333; 1975 c. 28; 1975 c. 39 ss. 236c to 247, 735 (5); 1975 Ex. Order No. 24; 1975 c. 189, 199, 224, 422; 1977 c. 29 ss. 399g to 406d, 1649, 1650m, 1654 (8) (e), 1656 (43); 1977 c. 44; 1977 c. 187 ss. 29, 30, 31, 135; 1977 c. 196 ss. 74 to 76m, 131; 1977 c. 203, 272, 277, 418, 447, 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 32 s. 92 (1); 1979 c. 34, 89, 189; 1979 c. 221 ss. 201m to 218, 2202 (13); 1979 c. 361; 1981 c. 20 ss. 587 to 592g, 2202 (33) (b), (c), (56) (a); 1981 c. 96 ss. 16, 67; 1981 c. 121, 127, 347, 353; 1981 c. 390 s. 252; 1983 a. 27, 46, 121, 192, 371, 378; 1985 a. 18, 23; 1985 a. 29 ss. 603 to 607, 3202 (22) (a); 1985 a. 34, 332; 1987 a. 6, 27, 82, 119, 306, 340, 354, 399, 403; 1989 a. 31, 56, 107, 208, 219, 336; 1991 a. 39, 269; 1993 a. 12, 16, 75, 123, 144, 184, 294, 349, 399, 490; 1995 a. 27 ss. 1193 to 1217m, 9130 (4), 9216 (19); 1995 a. 37, 216, 225; 1997 a. 2, 3, 27, 29, 41, 194, 237; 1999 a. 9, 42, 102, 186; 2001 a. 16, 19, 29, 109; 2003 a. 33 ss. 721 to 735m, 9160; 2003 a. 91, 320. [✓]

10 **SECTION 8.** 48.09 (5) of the statutes is amended to read:

11 48.09 (5) By the district attorney or, if designated by the county board of
12 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
13 or 48.977. If the county board transfers this authority to or from the district attorney
14 on or after May 11, 1990, the board may do so only if the action is effective on
15 September 1 of an odd-numbered year and the board notifies the department of
16 ~~administration~~ [✓] justice of that change by January 1 of that odd-numbered year.

~~X~~
History: 1977 c. 354; 1985 a. 176; 1989 a. 336; 1993 a. 246; 1995 a. 77, 275; 1997 a. 292.

17 **SECTION 9.** 111.815 (3) of the statutes is amended to read:

18 111.815 (3) With regard to collective bargaining activities involving employees
19 who are assistant district attorneys, the director of the office shall maintain close
20 liaison with the ~~secretary~~ [↓] department of ~~administration~~ [✓] justice.

~~X~~
History: 1977 c. 196; 1983 a. 27 s. 2200 (15); 1985 a. 42; 1989 a. 31; 1995 a. 27; 2001 a. 16, 104; 2003 a. 33.

21 **SECTION 10.** 938.09 (2) of the statutes is amended to read:

1 938.09 (2) By the district attorney or, if designated by the county board of
2 supervisors, by the corporation counsel, in any matter concerning a civil law
3 violation arising under s. 938.125. If the county board transfers this authority to or
4 from the district attorney on or after May 11, 1990, the board may do so only if the
5 action is effective on September 1 of an odd-numbered year and the board notifies
6 the department of ~~administration~~ [✓]justice of that change by January 1 of that
7 odd-numbered year.

History: 1995 a. 77. X

8 **SECTION 11.** 938.09 (5) of the statutes is amended to read:

9 938.09 (5) By the district attorney or, if designated by the county board of
10 supervisors, by the corporation counsel, in any matter arising under s. 938.13. If the
11 county board transfers this authority to or from the district attorney on or after
12 May 11, 1990, the board may do so only if the action is effective on September 1 of
13 an odd-numbered year and the board notifies the department of ~~administration~~ [✓]
14 justice of that change by January 1 of that odd-numbered year.

History: 1995 a. 77. X

15 **SECTION 12.** 978.03 (1) of the statutes is amended to read:

16 978.03 (1) The district attorney of any prosecutorial unit having a population
17 of 500,000 or more may appoint 5 deputy district attorneys and such assistant
18 district attorneys as may be requested by the department of ~~administration~~ [✓]justice [✓]
19 and authorized in accordance with s. 16.505. The district attorney shall rank the
20 deputy district attorneys for purposes of carrying out duties under this section. The
21 deputies, according to rank, may perform any duty of the district attorney, under the
22 district attorney's direction. In the absence or disability of the district attorney, the
23 deputies, according to rank, may perform any act required by law to be performed

1 by the district attorney. Any such deputy must have practiced law in this state for
2 at least 2 years prior to appointment under this section.

3 History: 1989 a. 31; 1991 a. 39; 1999 a. 9; 2001 a. 16. X

SECTION 13. 978.03 (1m) of the statutes is amended to read:

4 978.03 (1m) The district attorney of any prosecutorial unit having a population
5 of 200,000 or more but not more than 499,999 may appoint 3 deputy district
6 attorneys and such assistant district attorneys as may be requested by the
7 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
8 The district attorney shall rank the deputy district attorneys for purposes of carrying
9 out duties under this section. The deputies, according to rank, may perform any duty
10 of the district attorney, under the district attorney's direction. In the absence or
11 disability of the district attorney, the deputies, according to rank, may perform any
12 act required by law to be performed by the district attorney. Any such deputy must
13 have practiced law in this state for at least 2 years prior to appointment under this
14 section.

15 History: 1989 a. 31; 1991 a. 39; 1999 a. 9; 2001 a. 16. X

SECTION 14. 978.03 (2) of the statutes is amended to read:

16 978.03 (2) The district attorney of any prosecutorial unit having a population
17 of 100,000 or more but not more than 199,999 may appoint one deputy district
18 attorney and such assistant district attorneys as may be requested by the
19 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
20 The deputy may perform any duty of the district attorney, under the district
21 attorney's direction. In the absence or disability of the district attorney, the deputy
22 may perform any act required by law to be performed by the district attorney. The

1 deputy must have practiced law in this state for at least 2 years prior to appointment
2 under this section.

History: 1989 a. 31; 1991 a. 39; 1999 a. 9; 2001 a. 16. X

3 **SECTION 15.** 978.03 (3) of the statutes is amended to read:

4 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be
5 an attorney admitted to practice law in this state and, except as provided in ss.
6 978.043 and 978.044, may perform any duty required by law to be performed by the
7 district attorney. The district attorney of the prosecutorial unit under sub. (1), (1m),
8 or (2) may appoint such temporary counsel as may be authorized by the department
9 of administration [✓] justice.

History: 1989 a. 31; 1991 a. 39; 1999 a. 9; 2001 a. 16. X

10 **SECTION 16.** 978.04 of the statutes is amended to read:

11 **978.04 Assistants in certain prosecutorial units.** The district attorney of
12 any prosecutorial unit having a population of less than 100,000 may appoint one or
13 more assistant district attorneys as necessary to carry out the duties of his or her
14 office and as may be requested by the department of administration [✓] justice and
15 authorized in accordance with s. 16.505. Any such assistant district attorney must
16 be an attorney admitted to practice law in this state and, except as provided in s.
17 978.043, may perform any duty required by law to be performed by the district
18 attorney.

History: 1989 a. 31; 1999 a. 9. X

19 **SECTION 17.** 978.045 (1g) of the statutes is amended to read:

20 978.045 (1g) A court on its own motion may appoint a special prosecutor under
21 sub. (1r) or a district attorney may request a court to appoint a special prosecutor
22 under that subsection. Before a court appoints a special prosecutor on its own motion
23 or at the request of a district attorney for an appointment that exceeds 6 hours per
24 case, the court or district attorney shall request assistance from a district attorney,

1 deputy district attorney or assistant district attorney from other prosecutorial units
2 or an assistant attorney general. A district attorney requesting the appointment of
3 a special prosecutor, or a court if the court is appointing a special prosecutor on its
4 own motion, shall notify the department of ~~administration~~ [✓] justice, on a form
5 provided by that department, of the district attorney's or the court's inability to
6 obtain assistance from another prosecutorial unit or from an assistant attorney
7 general.

History: 1989 a. 117; 1991 a. 39, 188; 1993 a. 16; 1995 a. 27; 1997 a. 27.

8 **SECTION 18.** 978.045 (2) (b) of the statutes is amended to read:

9 978.045 (2) (b) The department of ~~administration~~ [✓] justice shall pay the
10 compensation ordered by the court from the appropriation under s. 20.475 (1) (d).

History: 1989 a. 117; 1991 a. 39, 188; 1993 a. 16; 1995 a. 27; 1997 a. 27.

11 **SECTION 19.** 978.11 of the statutes is amended to read:

12 **978.11 Budget.** The department of ~~administration~~ [✓] justice shall prepare the
13 budget of the prosecution system and submit it in accordance with s. 16.42.

History: 1989 a. 31; 1991 a. 39.

14 **SECTION 20.** 978.12 (5) (c) 1. of the statutes is amended to read:

15 978.12 (5) (c) 1. The salaries authorized under this section for the district
16 attorney and the state employees of the office of district attorney shall be paid by the
17 secretary of administration to the county treasurer pursuant to a voucher submitted
18 by the district attorney to the department of ~~administration~~ [✓] justice. The county
19 treasurer shall pay the amounts directly to the district attorney and state employees
20 of the office of district attorney and the amounts paid shall be subject to the
21 retirement system established under chapter 201, laws of 1937.

History: 1989 a. 31, 117, 336; 1991 a. 32, 39; 1993 a. 294; 1999 a. 9, 85; 2003 a. 33 ss. 2798, 2800, 9160.

22 **SECTION 21.** 978.13 (1) (b) of the statutes is amended to read:

1 978.13 (1) (b) In counties having a population of 500,000 or more, the salary
2 and fringe benefit costs of 2 clerk positions providing clerical services to the
3 prosecutors in the district attorney's office handling cases involving felony violations
4 under ch. 961. The secretary of administration shall pay the amount authorized
5 under this subsection to the county treasurer pursuant to a voucher submitted by the
6 district attorney to the department of ~~administration~~ [✓] justice from the appropriation
7 under s. 20.475 (1) (i).

8 History: 1989 a. 31, 117, 122, 336; 1991 a. 39; 1993 a. 16, 92; 1995 a. 27, 448; 1997 a. 27; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

8 **SECTION 22.** 978.13 (1) (c) of the statutes is amended to read:

9 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
10 fringe benefit costs of clerk positions in the district attorney's office necessary for the
11 prosecution of violent crime cases primarily involving felony violations under s.
12 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
13 940.06, 940.225, 943.23 (1g), and 943.32 (2). The secretary of administration shall
14 pay the amount authorized under this subsection to the county treasurer pursuant
15 to a voucher submitted by the district attorney to the ~~secretary~~ [↓] of ~~administration~~ [✓]
16 justice from the appropriation under s. 20.475 (1) (i). department

17 History: 1989 a. 31, 117, 122, 336; 1991 a. 39; 1993 a. 16, 92; 1995 a. 27, 448; 1997 a. 27; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

17 **SECTION 23.** 978.13 (1) (d) of the statutes is amended to read:

18 978.13 (1) (d) In counties having a population of 500,000 or more, the salary
19 and fringe benefit costs of 2 clerk positions providing clerical services to the
20 prosecutors in the district attorney's office handling cases involving the unlawful
21 possession or use of firearms. The secretary of administration shall pay the amount
22 authorized under this subsection to the county treasurer from the appropriation

- 1 under s. 20.475 (1) (f) or (i) pursuant to a voucher submitted by the district attorney
2 to the department of ~~administration~~ justice.

History: 1989 a. 31, 117, 122, 336; 1991 a. 39; 1993 a. 16, 92; 1995 a. 27, 448; 1997 a. 27; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

3 (END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-17371 *Dr 2*

CMH:lmk:ch *Dr*

D-Note TODAY

DOA:.....Statz - Move administrative functions for district attorneys to department of justice from the department of administration

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

(p. 8 - 10)

don't get cut

the budget

1 AN ACT ...; relating to: transferring administrative functions for district
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4 SECTION 2. 17.11 (4) (intro.) of the statutes is amended to read:

5 17.11 (4) (intro.) If it is determined in the action or proceeding or is found upon
6 the investigation that a district attorney or sheriff suspended under this section is

*103
A*

1 not guilty of an offense, or has not willfully neglected or refused to perform his or her
2 duties, as charged, that fact shall be certified by the governor to the department of
3 ~~administration~~ justice if a district attorney is involved or to the county clerk of the
4 sheriff's county if a sheriff is involved. Upon the certification, the district attorney
5 or sheriff shall be:

6 **SECTION 3.** 19.01 (4) (bn) of the statutes is amended to read:

7 19.01 (4) (bn) Official oaths and bonds of all district attorneys shall be filed with
8 the ~~secretary~~ department of administration justice.

9 **SECTION 4.** 19.42 (5) of the statutes is amended to read:

10 19.42 (5) "Department" means the legislature, the University of Wisconsin
11 System, any authority or public corporation created and regulated by an act of the
12 legislature and any office, department, independent agency or legislative service
13 agency created under ch. 13, 14 or 15, any technical college district or any
14 constitutional office other than a judicial office. In the case of a district attorney,
15 "department" means the department of ~~administration~~ justice unless the context
16 otherwise requires.

17 **SECTION 5.** 20.475 (intro.) of the statutes is amended to read:

18 **20.475 District attorneys.** (intro.) There is appropriated to the department
19 of ~~administration~~ justice for the following programs:

20 **SECTION 6.** 20.475 (1) (d) of the statutes is amended to read:

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22 salaries and fringe benefits of district attorneys and state employees of the office of
23 the district attorney, for payments under s. 978.045 (2) (b) and, beginning in the
24 1999–2000 fiscal year and ending in the 2003–04 fiscal year, for a payment of \$80,000
25 in each fiscal year toward the department of ~~administration's~~ justice's unfunded

1 prior service liability under the Wisconsin retirement system that results from
2 granting the creditable service under s. 40.02 (17) (gm).

3 **SECTION 7.** 20.923 (6) (ac) of the statutes is renumbered 20.923 (6) (dm) and
4 amended to read:

5 20.923 (6) (dm) Administration Justice, department of: deputy and assistant
6 district attorneys.

7 **SECTION 8.** 48.09 (5) of the statutes is amended to read:

8 48.09 (5) By the district attorney or, if designated by the county board of
9 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
10 or 48.977. If the county board transfers this authority to or from the district attorney
11 on or after May 11, 1990, the board may do so only if the action is effective on
12 September 1 of an odd-numbered year and the board notifies the department of
13 administration justice of that change by January 1 of that odd-numbered year.

14 **SECTION 9.** 111.815 (3) of the statutes is amended to read:

15 111.815 (3) With regard to collective bargaining activities involving employees
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18 **SECTION 10.** 938.09 (2) of the statutes is amended to read:

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7 justice of that change by January 1 of that odd-numbered year.

8 **SECTION 12.** 978.03 (1) of the statutes is amended to read:

9 978.03 (1) The district attorney of any prosecutorial unit having a population
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11 district attorneys as may be requested by the department of ~~administration~~ justice
12 and authorized in accordance with s. 16.505. The district attorney shall rank the
13 deputy district attorneys for purposes of carrying out duties under this section. The
14 deputies, according to rank, may perform any duty of the district attorney, under the
15 district attorney's direction. In the absence or disability of the district attorney, the
16 deputies, according to rank, may perform any act required by law to be performed
17 by the district attorney. Any such deputy must have practiced law in this state for
18 at least 2 years prior to appointment under this section.

19 **SECTION 13.** 978.03 (1m) of the statutes is amended to read:

20 978.03 (1m) The district attorney of any prosecutorial unit having a population
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7 978.03 (2) The district attorney of any prosecutorial unit having a population
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10 department of administration justice and authorized in accordance with s. 16.505.
11 The deputy may perform any duty of the district attorney, under the district
12 attorney's direction. In the absence or disability of the district attorney, the deputy
13 may perform any act required by law to be performed by the district attorney. The
14 deputy must have practiced law in this state for at least 2 years prior to appointment
15 under this section.

16 **SECTION 15.** 978.03 (3) of the statutes is amended to read:

17 978.03 (3) Any assistant district attorney under sub. (1), (1m)² or (2) must be
18 an attorney admitted to practice law in this state and, except as provided in ~~ss.~~ s.
19 978.043 and 978.044, may perform any duty required by law to be performed by the
20 district attorney. The district attorney of the prosecutorial unit under sub. (1), (1m),
21 or (2) may appoint such temporary counsel as may be authorized by the department
22 of administration justice.

23 **SECTION 16.** 978.04 of the statutes is amended to read:

24 **978.04 Assistants in certain prosecutorial units.** The district attorney of
25 any prosecutorial unit having a population of less than 100,000 may appoint one or

reconciled
that Note: This is amended s. 978.03 (3). This section has been affected
by drafts with the following changes: -1737 and 2RB-0536

CS
SECTION #, RP 978.044

1 more assistant district attorneys as necessary to carry out the duties of his or her
2 office and as may be requested by the department of administration justice and
3 authorized in accordance with s. 16.505. Any such assistant district attorney must
4 be an attorney admitted to practice law in this state and, except as provided in s.
5 978.043, may perform any duty required by law to be performed by the district
6 attorney.

7 **SECTION 17.** 978.045 (1g) of the statutes is amended to read:

8 978.045 (1g) A court on its own motion may appoint a special prosecutor under
9 sub. (1r) or a district attorney may request a court to appoint a special prosecutor
10 under that subsection. Before a court appoints a special prosecutor on its own motion
11 or at the request of a district attorney for an appointment that exceeds 6 hours per
12 case, the court or district attorney shall request assistance from a district attorney,
13 deputy district attorney or assistant district attorney from other prosecutorial units
14 or an assistant attorney general. A district attorney requesting the appointment of
15 a special prosecutor, or a court if the court is appointing a special prosecutor on its
16 own motion, shall notify the department of administration justice, on a form
17 provided by that department, of the district attorney's or the court's inability to
18 obtain assistance from another prosecutorial unit or from an assistant attorney
19 general.

20 **SECTION 18.** 978.045 (2) (b) of the statutes is amended to read:

21 978.045 (2) (b) The department of administration justice shall pay the
22 compensation ordered by the court from the appropriation under s. 20.475 (1) (d).

23 **SECTION 19.** 978.11 of the statutes is amended to read:

24 **978.11 Budget.** The department of administration justice shall prepare the
25 budget of the prosecution system and submit it in accordance with s. 16.42.

1 **SECTION 20.** 978.12 (5) (c) 1. of the statutes is amended to read:

2 978.12 (5) (c) 1. The salaries authorized under this section for the district
3 attorney and the state employees of the office of district attorney shall be paid by the
4 secretary of administration to the county treasurer pursuant to a voucher submitted
5 by the district attorney to the department of ~~administration~~ justice. The county
6 treasurer shall pay the amounts directly to the district attorney and state employees
7 of the office of district attorney and the amounts paid shall be subject to the
8 retirement system established under chapter 201, laws of 1937.

9 **SECTION 21.** 978.13 (1) (b) of the statutes is amended to read:

10 978.13 (1) (b) In counties having a population of 500,000 or more, the salary
11 and fringe benefit costs of 2 clerk positions providing clerical services to the
12 prosecutors in the district attorney's office handling cases involving felony violations
13 under ch. 961. The secretary of administration shall pay the amount authorized
14 under this subsection to the county treasurer pursuant to a voucher submitted by the
15 district attorney to the department of ~~administration~~ justice from the appropriation
16 under s. 20.475 (1) (i).

17 **SECTION 22.** 978.13 (1) (c) of the statutes is amended to read:

18 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
19 fringe benefit costs of clerk positions in the district attorney's office necessary for the
20 prosecution of violent crime cases primarily involving felony violations under s.
21 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
22 940.06, 940.225, 943.23 (1g), and 943.32 (2). The secretary of administration shall
23 pay the amount authorized under this subsection to the county treasurer pursuant
24 to a voucher submitted by the district attorney to the ~~secretary~~ department of
25 ~~administration~~ justice from the appropriation under s. 20.475 (1) (i).

SECTION 23. 978.13 (1) (d) of the statutes is amended to read:

978.13 (1) (d) In counties having a population of 500,000 or more, the salary and fringe benefit costs of 2 clerk positions providing clerical services to the prosecutors in the district attorney's office handling cases involving the unlawful possession or use of firearms. The secretary of administration shall pay the amount authorized under this subsection to the county treasurer from the appropriation under s. 20.475 (1) (f) or (i) pursuant to a voucher submitted by the district attorney to the department of ~~administration~~ justice.

(END)

Ch

DOA:.....Mukasa, BB0209 – Delete restorative justice coordinator statute due to sunset

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
COURTS AND PROCEDURE

DISTRICT ATTORNEYS

Current law requires the district attorney of Milwaukee County and the district attorney of another county, as selected by DOC, each to assign one assistant district attorney to be a restorative justice coordinator (coordinator). Each coordinator must establish a program to provide support to victims of crime, help reintegrate the victims into community life, and provide a forum to: allow offenders to meet with the victims or engage in other activities to discuss the impact of their crimes, explore potential restorative responses by the offenders, and provide methods to reintegrate the offenders into community life. The coordinators must assist other district attorneys in establishing similar programs in other counties. The coordinators must keep data regarding the time spent, the number of victims and offenders served, the types of offenses, the program addresses, and the rate of recidivism. DOA must maintain the data that the coordinators gather.

These requirements expire on June 30, 2005. This bill repeals the statutes that create the requirements.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ~~SECTION 1. 978.03 (3) of the statutes is amended to read:~~

2 ~~978.03 (3) Any assistant district attorney under sub. (1), (1m), or (2) must be~~
3 ~~an attorney admitted to practice law in this state and, except as provided in ss. s.~~
4 ~~978.043 and 978.044, may perform any duty required by law to be performed by the~~
5 ~~district attorney. The district attorney of the prosecutorial unit under sub. (1), (1m),~~
6 ~~or (2) may appoint such temporary counsel as may be authorized by the department~~
7 ~~of administration.~~

8 ~~SECTION 2. 978.044 of the statutes is repealed.~~

9 ~~SECTION 3.~~ 978.05 (8) (b) of the statutes is amended to read:

10 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ss. s.
11 978.043 and 978.044, make appropriate assignments of the staff throughout the
12 prosecutorial unit. The district attorney may request the assistance of district
13 attorneys, deputy district attorneys, or assistant district attorneys from other
14 prosecutorial units or assistant attorneys general who then may appear and assist
15 in the investigation and prosecution of any matter for which a district attorney is
16 responsible under this chapter in like manner as assistants in the prosecutorial unit
17 and with the same authority as the district attorney in the unit in which the action
18 is brought. Nothing in this paragraph limits the authority of counties to regulate the
19 hiring, employment, and supervision of county employees.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1737/2dn
MGD: *ink*

(date)

Andrew:

This draft reconciles LRB-0549/2 and LRB-1737/1. Both of these drafts should continue to appear in the compiled bill.

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9 This draft also
reconciles LRB-0536/P1 and ~~LRB-~~ 1737/1.
It replaces LRB-0536 in the draft.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1737/2dn
MGD&CMH:lmk:jf

January 26, 2005

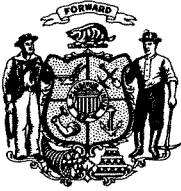
Andrew:

This draft reconciles LRB-0549/2 and LRB-1737/1. Both of these drafts should continue to appear in the compiled bill.

This draft also reconciles LRB-0536/P1 and LRB-1737/1. It replaces LRB-0536 in the draft.

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1737/2

CMH:lmk:jf

DOA:.....Statz - Move administrative functions for district attorneys to department of justice from the department of administration

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

DISTRICT ATTORNEYS

Generally, under current law, a county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA provides administrative assistance to district attorney offices. This bill transfers the administrative assistance duties to DOJ.

Current law requires the district attorney of Milwaukee County and the district attorney of another county, as selected by DOC, each to assign one assistant district attorney to be a restorative justice coordinator (coordinator). Each coordinator must establish a program to provide support to victims of crime, help reintegrate the victims into community life, and provide a forum to: allow offenders to meet with the victims or engage in other activities to discuss the impact of their crimes, explore potential restorative responses by the offenders, and provide methods to reintegrate the offenders into community life. The coordinators must assist other district attorneys in establishing similar programs in other counties. The coordinators must keep data regarding the time spent, the number of victims and offenders served, the types of offenses, the program addresses, and the rate of recidivism. DOA must maintain the data that the coordinators gather.

These requirements expire on June 30, 2005. This bill repeals the statutes that create the requirements.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.004 (13) of the statutes is repealed.

2 **SECTION 2.** 17.11 (4) (intro.) of the statutes is amended to read:

3 17.11 (4) (intro.) If it is determined in the action or proceeding or is found upon
4 the investigation that a district attorney or sheriff suspended under this section is
5 not guilty of an offense, or has not willfully neglected or refused to perform his or her
6 duties, as charged, that fact shall be certified by the governor to the department of
7 ~~administration~~ justice if a district attorney is involved or to the county clerk of the
8 sheriff's county if a sheriff is involved. Upon the certification, the district attorney
9 or sheriff shall be:

10 **SECTION 3.** 19.01 (4) (bn) of the statutes is amended to read:

11 19.01 (4) (bn) Official oaths and bonds of all district attorneys shall be filed with
12 the ~~secretary~~ department of ~~administration~~ justice.

13 **SECTION 4.** 19.42 (5) of the statutes is amended to read:

14 19.42 (5) "Department" means the legislature, the University of Wisconsin
15 System, any authority or public corporation created and regulated by an act of the
16 legislature and any office, department, independent agency or legislative service
17 agency created under ch. 13, 14 or 15, any technical college district or any
18 constitutional office other than a judicial office. In the case of a district attorney,
19 "department" means the department of ~~administration~~ justice unless the context
20 otherwise requires.

21 **SECTION 5.** 20.475 (intro.) of the statutes is amended to read:

1 **20.475 District attorneys.** (intro.) There is appropriated to the department
2 of ~~administration~~ justice for the following programs:

3 **SECTION 6.** 20.475 (1) (d) of the statutes is amended to read:

4 20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for
5 salaries and fringe benefits of district attorneys and state employees of the office of
6 the district attorney, for payments under s. 978.045 (2) (b) and, beginning in the
7 1999–2000 fiscal year and ending in the 2003–04 fiscal year, for a payment of \$80,000
8 in each fiscal year toward the department of ~~administration's~~ justice's unfunded
9 prior service liability under the Wisconsin retirement system that results from
10 granting the creditable service under s. 40.02 (17) (gm).

11 **SECTION 7.** 20.923 (6) (ac) of the statutes is renumbered 20.923 (6) (dm) and
12 amended to read:

13 20.923 (6) (dm) ~~Administration~~ Justice, department of: deputy and assistant
14 district attorneys.

15 **SECTION 8.** 48.09 (5) of the statutes is amended to read:

16 48.09 (5) By the district attorney or, if designated by the county board of
17 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
18 or 48.977. If the county board transfers this authority to or from the district attorney
19 on or after May 11, 1990, the board may do so only if the action is effective on
20 September 1 of an odd-numbered year and the board notifies the department of
21 ~~administration~~ justice of that change by January 1 of that odd-numbered year.

22 **SECTION 9.** 111.815 (3) of the statutes is amended to read:

23 111.815 (3) With regard to collective bargaining activities involving employees
24 who are assistant district attorneys, the director of the office shall maintain close
25 liaison with the ~~secretary~~ department of ~~administration~~ justice.

1 **SECTION 10.** 938.09 (2) of the statutes is amended to read:

2 938.09 (2) By the district attorney or, if designated by the county board of
3 supervisors, by the corporation counsel, in any matter concerning a civil law
4 violation arising under s. 938.125. If the county board transfers this authority to or
5 from the district attorney on or after May 11, 1990, the board may do so only if the
6 action is effective on September 1 of an odd-numbered year and the board notifies
7 the department of ~~administration~~ justice of that change by January 1 of that
8 odd-numbered year.

9 **SECTION 11.** 938.09 (5) of the statutes is amended to read:

10 938.09 (5) By the district attorney or, if designated by the county board of
11 supervisors, by the corporation counsel, in any matter arising under s. 938.13. If the
12 county board transfers this authority to or from the district attorney on or after
13 May 11, 1990, the board may do so only if the action is effective on September 1 of
14 an odd-numbered year and the board notifies the department of ~~administration~~
15 justice of that change by January 1 of that odd-numbered year.

16 **SECTION 12.** 978.03 (1) of the statutes is amended to read:

17 978.03 (1) The district attorney of any prosecutorial unit having a population
18 of 500,000 or more may appoint 5 deputy district attorneys and such assistant
19 district attorneys as may be requested by the department of ~~administration~~ justice
20 and authorized in accordance with s. 16.505. The district attorney shall rank the
21 deputy district attorneys for purposes of carrying out duties under this section. The
22 deputies, according to rank, may perform any duty of the district attorney, under the
23 district attorney's direction. In the absence or disability of the district attorney, the
24 deputies, according to rank, may perform any act required by law to be performed

1 by the district attorney. Any such deputy must have practiced law in this state for
2 at least 2 years prior to appointment under this section.

3 **SECTION 13.** 978.03 (1m) of the statutes is amended to read:

4 978.03 (1m) The district attorney of any prosecutorial unit having a population
5 of 200,000 or more but not more than 499,999 may appoint 3 deputy district
6 attorneys and such assistant district attorneys as may be requested by the
7 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
8 The district attorney shall rank the deputy district attorneys for purposes of carrying
9 out duties under this section. The deputies, according to rank, may perform any duty
10 of the district attorney, under the district attorney's direction. In the absence or
11 disability of the district attorney, the deputies, according to rank, may perform any
12 act required by law to be performed by the district attorney. Any such deputy must
13 have practiced law in this state for at least 2 years prior to appointment under this
14 section.

15 **SECTION 14.** 978.03 (2) of the statutes is amended to read:

16 978.03 (2) The district attorney of any prosecutorial unit having a population
17 of 100,000 or more but not more than 199,999 may appoint one deputy district
18 attorney and such assistant district attorneys as may be requested by the
19 department of ~~administration~~ justice and authorized in accordance with s. 16.505.
20 The deputy may perform any duty of the district attorney, under the district
21 attorney's direction. In the absence or disability of the district attorney, the deputy
22 may perform any act required by law to be performed by the district attorney. The
23 deputy must have practiced law in this state for at least 2 years prior to appointment
24 under this section.

25 **SECTION 15.** 978.03 (3) of the statutes is amended to read:

1 978.03 (3) Any assistant district attorney under sub. (1), (1m), or (2) must be
2 an attorney admitted to practice law in this state and, except as provided in ~~ss.~~ s.
3 978.043 and 978.044, may perform any duty required by law to be performed by the
4 district attorney. The district attorney of the prosecutorial unit under sub. (1), (1m),
5 or (2) may appoint such temporary counsel as may be authorized by the department
6 of ~~administration~~ justice.

 ****NOTE: This is reconciled s. 978.03 (3). This SECTION has been affected by drafts
with the following LRB numbers: LRB-1737 and LRB-0536.

7 **SECTION 16.** 978.04 of the statutes is amended to read:

8 **978.04 Assistants in certain prosecutorial units.** The district attorney of
9 any prosecutorial unit having a population of less than 100,000 may appoint one or
10 more assistant district attorneys as necessary to carry out the duties of his or her
11 office and as may be requested by the department of ~~administration~~ justice and
12 authorized in accordance with s. 16.505. Any such assistant district attorney must
13 be an attorney admitted to practice law in this state and, except as provided in s.
14 978.043, may perform any duty required by law to be performed by the district
15 attorney.

16 **SECTION 17.** 978.044 of the statutes is repealed.

17 **SECTION 18.** 978.045 (1g) of the statutes is amended to read:

18 **978.045 (1g)** A court on its own motion may appoint a special prosecutor under
19 sub. (1r) or a district attorney may request a court to appoint a special prosecutor
20 under that subsection. Before a court appoints a special prosecutor on its own motion
21 or at the request of a district attorney for an appointment that exceeds 6 hours per
22 case, the court or district attorney shall request assistance from a district attorney,
23 deputy district attorney or assistant district attorney from other prosecutorial units

1 or an assistant attorney general. A district attorney requesting the appointment of
2 a special prosecutor, or a court if the court is appointing a special prosecutor on its
3 own motion, shall notify the department of ~~administration~~ justice, on a form
4 provided by that department, of the district attorney's or the court's inability to
5 obtain assistance from another prosecutorial unit or from an assistant attorney
6 general.

7 **SECTION 19.** 978.045 (2) (b) of the statutes is amended to read:

8 978.045 (2) (b) The department of ~~administration~~ justice shall pay the
9 compensation ordered by the court from the appropriation under s. 20.475 (1) (d).

10 **SECTION 20.** 978.05 (8) (b) of the statutes is amended to read:

11 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ~~ss.~~ s.
12 978.043 and ~~978.044~~, make appropriate assignments of the staff throughout the
13 prosecutorial unit. The district attorney may request the assistance of district
14 attorneys, deputy district attorneys, or assistant district attorneys from other
15 prosecutorial units or assistant attorneys general who then may appear and assist
16 in the investigation and prosecution of any matter for which a district attorney is
17 responsible under this chapter in like manner as assistants in the prosecutorial unit
18 and with the same authority as the district attorney in the unit in which the action
19 is brought. Nothing in this paragraph limits the authority of counties to regulate the
20 hiring, employment, and supervision of county employees.

21 **SECTION 21.** 978.11 of the statutes is amended to read:

22 **978.11 Budget.** The department of ~~administration~~ justice shall prepare the
23 budget of the prosecution system and submit it in accordance with s. 16.42.

24 **SECTION 22.** 978.12 (5) (c) 1. of the statutes is amended to read:

1 978.12 (5) (c) 1. The salaries authorized under this section for the district
2 attorney and the state employees of the office of district attorney shall be paid by the
3 secretary of administration to the county treasurer pursuant to a voucher submitted
4 by the district attorney to the department of ~~administration~~ justice. The county
5 treasurer shall pay the amounts directly to the district attorney and state employees
6 of the office of district attorney and the amounts paid shall be subject to the
7 retirement system established under chapter 201, laws of 1937.

8 **SECTION 23.** 978.13 (1) (b) of the statutes is amended to read:

9 978.13 (1) (b) In counties having a population of 500,000 or more, the salary
10 and fringe benefit costs of 2 clerk positions providing clerical services to the
11 prosecutors in the district attorney's office handling cases involving felony violations
12 under ch. 961. The secretary of administration shall pay the amount authorized
13 under this subsection to the county treasurer pursuant to a voucher submitted by the
14 district attorney to the department of ~~administration~~ justice from the appropriation
15 under s. 20.475 (1) (i).

16 **SECTION 24.** 978.13 (1) (c) of the statutes is amended to read:

17 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
18 fringe benefit costs of clerk positions in the district attorney's office necessary for the
19 prosecution of violent crime cases primarily involving felony violations under s.
20 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
21 940.06, 940.225, 943.23 (1g), and 943.32 (2). The secretary of administration shall
22 pay the amount authorized under this subsection to the county treasurer pursuant
23 to a voucher submitted by the district attorney to the ~~secretary~~ department of
24 ~~administration~~ justice from the appropriation under s. 20.475 (1) (i).

25 (END)